

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SCOTT CAWTHON,

Plaintiff,

-against-

YAOYAGE,

Defendant.

22-CV-7279 (JHR) (RFT)

ORDER

ROBYN F. TARNOFSKY, United States Magistrate Judge:

On February 11, 2025, Plaintiff Scott Cawthon moved for default judgment against Defendant Yaoyage on his claims of violations of the Copyright Act. (See ECF 45.) On May 16, 2025, Judge Jennifer H. Rearden referred to me the disposition of that motion. (See ECF 47.)

“[B]efore a court grants a motion for default judgment, it may first assure itself that it has personal jurisdiction over the defendant.” *City of N.Y. v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 133 (2d. Cir. 2011). Plaintiff contends that this Court has personal jurisdiction over Defendant, a resident of China, pursuant to 17 U.S.C. § 512(g)(3)(D) of the Digital Millenium Copyright Act (“DMCA”) because, pursuant to the DMCA, Defendant submitted a Counter-Notice “consent[ing] to the jurisdiction of any judicial district in which Amazon can be found” (ECF 45, Mot. for Default J. at 1), which includes this District. However, Plaintiff previously filed on the docket correspondence with Amazon identifying deficiencies in Defendant’s Counter-Notice, including that Defendant did not consent to the jurisdiction of any district in which the service provider, in this case, Amazon, can be found. (See ECF 21-1, Amazon Correspondence at 2.) On nearly identical facts in another case brought by Plaintiff, the Court determined that this District did not have personal jurisdiction over Defendant. See *Cawthon*

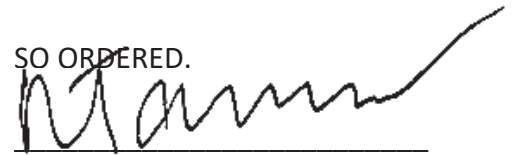
v. Lishuang, No. 22-CV-7381 (JGLC) (SLC), 2024 WL 3813879 (S.D.N.Y. July 19, 2024)

(concluding that the plaintiff had not “established that the Counter-Notice was ‘effective’ under the DMCA such that [the defendant] consented to this Court’s jurisdiction”), *report and recommendation adopted*, 2024 WL 4200389 (S.D.N.Y. Sept. 16, 2024).

It is ORDERED that, by **June 24, 2025**, Plaintiff shall file a memorandum addressing whether this Court has personal jurisdiction over Defendant in this action and attaching as an exhibit a copy of the Counter-Notice on which Plaintiff relies. (See ECF 45, Mot. for Default J. at 1.)

DATED: June 17, 2025
New York, NY

SO ORDERED.

A handwritten signature in black ink, appearing to read 'Robyn F. Tarnofsky', written over a horizontal line.

ROBYN F. TARNOFSKY
United States Magistrate Judge